

Response to Comments Submitted by the Chamber of Commerce Environmental Technical Committee and Bowater Incorporated. August 18, 2004.

DHEC should not allow delays in the NSR promulgation of Standard No. 7.1 to delay finalization of revisions to Standard No. 7 (Submitted by Chamber of Commerce).

The Technical Committee understands DHEC's rationale for promulgating Standard No. 7.1, concurrently with the changes to Standard No. 7. We are asking if delays are anticipated in development of the nonattainment NSR rules, the changes to Standard No. 7 be made independently. Since all facilities in South Carolina are potentially impacted by Standard No. 7, and the number of facilities subject to Standard 7.1 is limited, separate promulgation paths may be appropriate.

The Department does not anticipate any delays in the promulgation of either of these rules. However, the Department believes that the revisions to both regulations are so closely related that for the sake of efficiency and to avoid confusion, they should be addressed together.

DHEC should specifically address Early Action Compacts in this rule (Submitted by Chamber of Commerce). Since Early Action Compacts are an integral part of DHEC's strategy for obtaining and maintaining attainment status, it seems appropriate that this rule explicitly address the compacts. This would provide certainty to all stakeholders that the requirements of Standard No. 7.1 in areas with approved compacts are deferred.

While the Department agrees that the Early Action Compacts are an integral part of the strategy for obtaining and maintaining clean air, the Department disagrees that the Compacts should be addressed within the regulation. Standard 7.1 paragraph (a)(1) states that major stationary sources constructed or modified in areas designated as nonattainment under 40 CFR 81.341 are subject to this regulation. While Early Action Compact areas have been designated as nonattainment, they have had the effective date of the designation deferred to a future date. Therefore, as long as the area continues to meet the milestones laid out in the Early Action Compacts, the effective date of the nonattainment designation will continue to be deferred and this will preclude any major stationary source from being subject to Standard 7.1

DHEC should reword Paragraph (a)(2) of this rule to clarify requirements associated with areas redesignated to attainment. The rule, as written, is confusing with respect to requirements that apply to facilities located in areas that are eventually redesignated from nonattainment to attainment. The regulation should clearly indicate that major modifications or new major stationary sources are not subject to Standard No. 7.1 after redesignation of that area back to attainment, though emission controls (i.e. LAER) and/or permit limits established pursuant to a nonattainment NSR action must remain in place.

The Department believes that in this respect the regulation is clear. Paragraph (a)(1) states that, "this rule applies to all major stationary sources constructed or modified in any nonattainment area as designated in 40 CFR 81.341..." Therefore, we believe that

any new or newly modified sources that are proposed in an area that is redesignated to attainment under 40 CFR 81.341 will not be subject to Standard 7.1. Further the language in paragraph (a)(2) states is that any source that was reviewed under Standard 7.1 must maintain emissions limitations, control equipment, etc. to address anti-backsliding concerns.

DHEC should use a definition of VOC that matches the latest federal definition. In the draft rule, DHEC had two definitions of Volatile Organic Compound (VOC). One has a list of exempt compounds that is only a partial listing of federal VOC exempt compounds. The other is a reference to the definition of VOC in Regulation 61-62.1, Section I. The South Carolina definition of VOC contains the same list of exempt compounds as the federal rule at 40 CFR 51.100 with the exception of “cyclic, branched, or linear completely methylated siloxanes” which are included in the federal list of exempt compounds but not in the state list. The Technical Committee requests that DHEC use reference to the state definition of VOC in this rule. We also request DHEC to consider updating the VOC definition to match the federal definition.

The definition of VOC contained in Standard 7.1 is identical to the one found in 40 CFR 51.165, which is the federal rule that was used in developing this regulation. The second definition of VOC is also identical to the definition found in 40 CFR 51.165 except that the federal definition refers to 40 CFR 51.100 while Standard 7.1 refers to R.61-62.1, Section I. The lists of exempted compounds in both references are identical, including the reference to “...cyclic, branched, or linear completely methylated siloxanes”.

DHEC should provide a definition, or a method of demonstration, of “positive net air quality benefit” with respect to emission offsets (Submitted by Chamber of Commerce). This term is used in Paragraph (d)(1)(D) and warrants additional clarification. This clarification should be included in the rule, either in the definition section or a separate section outlining how such a demonstration is to be made.

Paragraph (d)(1)(D) was taken from Appendix S to 40 CFR 51. EPA has stated that it intends to revise Appendix S in the near future. The Department intends to revise this portion of Standard 7.1 at that time. Appendix S does clarify this condition of approval by stating that a source must conduct modeling to show a “positive net air quality benefit” for SO₂, particulate matter, and carbon monoxide since the air quality impact is site dependent and simple area wide mass emission offsets are not appropriate.

DHEC should provide clarification in Paragraph (d)(2)(B) regarding regulation changes which could potentially result in a facility becoming subject to this standard (Submitted by Chamber of Commerce). It is recommended that additional text be inserted to clarify that a unilateral relaxation of a standard or requirement by DHEC is not a basis for subjecting a source to regulation under Standard 7.1. However, if the source has self-imposed limits to avoid regulation under Standard 7.1, then a relaxation of those limits would subject the source to this regulation.

The Department seeks clarification on this comment.

DHEC should provide for interprecursor trading. As a secondary pollutant, ozone is formed by the presence of its primary precursor pollutants, oxides of nitrogen (NO_x) and VOCs in combination, with high ambient temperatures and strong solar radiation. Given this nature of ground-level ozone formation, the Technical Committee requests that DHEC provide industry with the flexibility of interprecursor trading. This provision, for which precedent exists and which EPA has considered as an option for individual states to include in their non-attainment NSR rules, will have the effect of reducing ozone precursor emissions while offering industry in the state flexibility with respect to securing the necessary emission offset credits.

The Department currently does not have the discretion to allow interprecursor trading. The Department will wait until further regulations from EPA are published before addressing this issue due to the uncertainty of the content of the rule change. However, it should be noted that when it comes to ozone formation in South Carolina, modeling demonstrates that NO_x reductions have a more significant impact on ozone concentrations than VOC reductions.

DHEC should allow emission offset credits to be secured from any area within South Carolina. The prevailing regulatory approach has been to require regional emission reduction strategies versus small scale, local strategies for achieving attainment status, especially with respect to ozone. It is the Technical Committee's opinion that the intent of the non-attainment rules will be preserved by providing industry in South Carolina with the flexibility to secure emission offset credits from *any* area within the state. We request that DHEC include these provisions in the non-attainment rules.

The Department will wait until further regulations from EPA are published before addressing this issue due to the uncertainty of the content of the rule changes forthcoming. The Department believes that the current language offers sufficient flexibility to obtain offset credits. Offset credits in the nonattainment area are preferred, but the Department will allow offsets from other areas on a case-by-case basis.